CRP 145/2000
BEFORE
THE HON'BLE MR JUSTICE H. N. SHARMA
CRP No 145/2000
15.11.2006

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Heard Mr N Choudhury, learned counsel for the petitioner. None appears for the opposite parties.

The challenge made in this revision petition is the order dated 29.4.2000 passed by the learned Civil Judge (Senior Division), Tinsukia, in Title Suit No 27/92. By the impugned order, the learned appellate Court rejected the prayer of the petitioner to accept the written statements by vacating the ex parte order on the ground that the said order is appellable one and no appeal has been filed against the same. Records disclosed that an ex parte order was passed to proceed the suit exparte against the defendants / petitioners. Even if such an order is appellable, it is always open for the said Court to exercise its jurisdiction in any way as it deem fit and proper by passing an order on merit. The same having not done, the learned appellate Court committed material irregularity and illegality in exercising its jurisdiction vested upon it by passing the said impugned order. Consequently, the impugned order stands set aside and the learned appellate Court shall pass appropriate order in terms of the prayer made by the petitioner, particularly, keeping in mind no ex parte decree has been passed and in the meantime the petitioners have already submitted their written statements which is on record.

Subject to the aforesaid observation and direction , this revision petition stands allowed.

JUDGE

gch